

**DISTRICT OF COLUMBIA COMMISSION ON
SELECTION AND TENURE OF
ADMINISTRATIVE LAW JUDGES OF
THE OFFICE OF ADMINISTRATIVE HEARINGS**

**NOTICE SEEKING COMMENTS REGARDING REAPPOINTMENT OF
ADMINISTRATIVE LAW JUDGE**

The Commission on Selection and Tenure of Administrative Law Judges (“Commission”) Seeks Comments Regarding the Potential Reappointment of Administrative Law Judge Caryn L. Hines.

This is to notify members of the bar and the general public, pursuant to section 3705.7 of Title 6 of the District of Columbia Municipal Regulations (“DCMR”), that the Commission has begun review of the qualifications for reappointment of Administrative Law Judge Hines of the District of Columbia Office of Administrative Hearings. Administrative Law Judge Hines has filed a statement with the Commission requesting reappointment to a six-year term upon the expiration of her initial two-year term on April 28, 2010.

Section 3705.21 of Title 6 of the DCMR provides:

In deciding whether to reappoint an Administrative Law Judge, the Commission shall consider all information it has received concerning the reappointment, and the voting members shall give significant weight to the recommendation of the Chief Administrative Law Judge, unless they determine that the recommendation is not founded on substantial evidence. The Commission shall reappoint the Administrative Law Judge if it finds that the Administrative Law Judge has satisfactorily performed the responsibilities of his or her office and is likely to continue to do so.

In addition to the specific qualifications applicable to all Administrative Law Judges contained in section 3703 of Title 6 of the DCMR (*Appointment, Reappointment, Discipline and Removal of Administrative Law Judges by the Commission on Selection and Tenure of Administrative Law Judges*), section 3703.5 of Title 6 of the DCMR states: “An Administrative Law Judge shall possess judicial temperament, judgment, expertise and analytical and other skills necessary and desirable for an Administrative Law Judge.”

The Commission hereby requests members of the bar and other attorneys, litigants, interested organizations, and members of the public to submit any information bearing on the qualifications of Administrative Law Judge Hines, which he or she believes will aid the Commission in deciding whether to reappoint this Administrative Law Judge. The cooperation of the community at an early stage will greatly aid the Commission in fulfilling its responsibilities. The identity of any person submitting information shall be kept confidential unless expressly authorized by the person submitting the information.

All communications should be received by the Commission on or before February 22, 2010 and should be mailed or delivered in a sealed envelope marked "Confidential – ALJ Reappointments," addressed to:

Commission on Selection and Tenure of Administrative Law Judges
Office of Administrative Hearings
District of Columbia Government
825 North Capitol Street, NE
Suite 4150
Washington, D.C. 20002-4210

The members of the Commission are:

The Honorable Anita Josey-Herring
The Honorable Gregory Jackson
Acting Chief Judge Mary Oates Walker
Charlotte Brookins-Hudson
James McKay

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
BOARD FOR THE CONDEMNATION OF INSANITARY BUILDINGS

NOTICE OF SCHEDULED MEETING

The Board for the Condemnation of Insanitary Buildings will be holding a scheduled meeting on Wednesday, January 27, 2010 at 10:00 am. The meeting will be held at 441 4th Street, NW, 11th Floor Conference Center, Washington, D.C. 20001.

Draft board meeting agendas are available on the website of the Department of Consumer and Regulatory Affairs at dcra.dc.gov, by clicking on the “Board for the Condemnation of Insanitary Buildings” tab on the main page.

For any inquiries regarding properties before the Board for the Condemnation of Insanitary Buildings, please call (202) 442-4332 or e-mail vacantproperty@dc.gov.

BOARD OF ELECTIONS AND ETHICS**CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in five (5) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

VACANT: 3D07, 6B11, 8C05, 8C06, 8E01

Petition Circulation Period: **Monday, January 25, 2010 thru Tuesday, February 16, 2010**

Petition Challenge Period: **Friday, February 19, 2010 thru Thursday, February 25, 2010**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001**

For more information, the public may call **727-2525**.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

NOTICE OF FILING

APPLICATION NO. 18049

On January 15, 2010, the Foreign Missions/Board of Zoning Adjustment of the District of Columbia, received the above-numbered application from Cynthia A. Giordano, with the law firm of Arnold & Porter LLP on behalf of **The Republic of Trinidad and Tobago**, pursuant to 11 DCMR §§ 201.1, 1001, 1002, and section 4306 of the Foreign Missions Act, to permit the expansion of an existing chancery (offices of a foreign mission) in the DC/SP-1 District at premises 1714 Massachusetts Avenue, N.W. (Square 158, Lot 834). The application will be considered by the Board in accordance with the requirements of the Foreign Missions Act, and any appropriate provisions of the Title 11 Zoning Regulations.

This is not a notice of public hearing on the application. That notice will be published at least 40 days in advance of the hearing.

For additional information about this application, contact the Office of Zoning, at 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001, telephone (202) 727-6311.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18002 of Gould Property Company, through Square 374 LLC, pursuant to 11 DCMR § 3104.1 and 3103.1 for: (1) a special exception under subsections 777.1 and 411.11 for relief from the requirements of subsections 411.3, 411.4, and 411.5, to allow two separate rooftop enclosures of varying heights, (2) a special exception under subsection 2202.2 for relief from the requirements of subsections 2204.9 and 2201.5, to allow a non-dedicated service and delivery space, and (3) a variance from the requirements of subsections 777.1, 411.2, and 400.7(c), to allow elevator penthouses with a maximum height of 22 feet 6 inches, to allow the construction of a new office building with ground floor retail in the DD/C-3-C District (and Downtown Urban Renewal Area) at premises 900 New York Avenue, N.W. (Square 374, Lot 45).¹

HEARING DATE: December 1, 2009

DECISION DATE: December 8, 2009

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case is self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. The Office of Planning (OP) also submitted a report in support of the application.

Variance Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary pursuant to § 3103.2, for a variance from §§ 771.1, 411.2, and 400.7(c). No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 777.1, 411.2, and

¹ The applicant amended its application at the public hearing to include additional sections of the Zoning Regulations. However, the three areas of relief reflected in the above caption are identical to the relief which was identified in the original application and filings.

BZA APPLICATION NO. 18002**PAGE NO. 2**

400.7(c), the Applicant has met the burden of proof under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner if the Zoning Regulations were strictly applied, and that the relief can be granted without causing substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Special Exception Relief:

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary pursuant to § 3104.1, for special exception relief under §§ 777.1, 411.11, 2202.2, from the requirements of §§ 411.3, 411.4, 411.5, 2201.5, and 2204.9. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and the OP reports filed in this case, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR § 3104.1 and §§ 777.1, 411.11, 411.3, 411.4, 411.5, 2202.2, 2201.5, and 2204.9, that the requested relief can be granted, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Height Issue

The plans for this project show an atrium and a roof canapé that exceed both the maximum height permitted for this building under § 770.1 of the Zoning Regulations (Title 11 DCMR) and Section 5 of the Height Act,² D.C. Official Code § 6-601.05 (2001). In its report to the Board, OP noted that the Applicant considered the roof canapé to be an architectural embellishment, and the atrium to be a tower.

According to Section 5 of the Height Act, “spires, towers, domes, minarets, pinnacles, penthouses over elevator shafts,³ ventilation shafts, chimneys, smokestacks, and fire sprinkler tanks may be erected to a greater height than any limit prescribed” if approved by the Mayor.⁴

² An Act To regulate the height of buildings in the District of Columbia, approved June 1, 1910 (36 Stat. 458)

³ An Opinion of the Corporation Counsel, dated July 27, 1953, “concluded that the phrase ... ‘penthouses over elevator shafts’, may be construed to include penthouses over stairways leading to the roof and penthouses over other utilities necessary in connection with the operation of a building, but not to include penthouses to be used for residential, office or business purposes.”

⁴ The Height Act actually refers to the District of Columbia Commissioners. However, Reorganization Plan No. 3 of 1967 divided the duties of the Commissioners between a single Commissioner, who essentially constituted the executive branch, and an appointed Council, with the former receiving Height Act waiver authority. The

BZA APPLICATION NO. 18002**PAGE NO. 3**

These same structures are also allowed to exceed the applicable zoning height limit per 11 DCMR § 770.3. Notwithstanding the texts of these two provisions, Zoning Administrators have historically interpreted Section 5 of the Height Act, and § 770.3 of the Zoning Regulations, as extending to *any* architectural embellishment. The Board has not had the occasion to rule upon the validity of this interpretation, and makes no determination now.

In any event, the Applicant considers the roof canapé to be an architectural embellishment and the atrium to be a tower. This contention seemed novel to the Board and so, as part of its deliberations, the Board discussed whether it should rule upon the validity of this view and deny the application if it was determined that either of the two structures could not lawfully be built.

The Board decided not to do so. While the Board would be reluctant to approve plans that could not be built because the height of the building is not achievable as a matter of law, the Board believes that the issue is best decided in the first instance by DCRA as part of its review of the Applicant's requests for a building permit. DCRA should not view the Board's approval of this application as obviating the need for a careful review of the approved plans for compliance with the Height Act and the Zoning Regulations.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. It is therefore **ORDERED** that this application, pursuant to the plans, marked as Exhibit No. 11, is hereby **GRANTED**.

VOTE: **3-0-2** (Shane L. Dettman, Michael G. Turnbull and Meridith H. Moldenhauer to APPROVE; Marc D. Loud not present, not voting; one Mayoral appointee (vacant) not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this summary order.

FINAL DATE OF ORDER: January 19, 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

Commissioner delegated this authority to the Director of the former Department of Licenses and Inspections through Commissioner Order No. 68-431. That agency eventually became DCRA.

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PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18010 of Ashley B. Poole, pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 404, a variance from the court requirements under section 406, and a variance from the nonconforming structure provisions under subsection 2001.3, to allow a second story addition to an existing one-family row dwelling in the R-4 District at premises 1212 Wylie Street, N.E. (Square 1003, Lot 87).

HEARING DATE: December 15, 2009

DECISION DATE: January 12, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A which is automatically a party to this application. ANC 6A submitted a letter (Exhibit 24) in support of the application. The Office of Planning (OP) submitted a report (Exhibit 23) in opposition to the application. The Capitol Hill Restoration Society submitted a letter (Exhibit 26) in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for variance relief from sections 404, 406, and 2001.3.

Based upon the record before the Board, and having given great weight to the OP and ANC reports, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 404, 406, and 2003.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 18010

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 7 (plans) be **GRANTED**.

VOTE: **4-0-1** (Shane L. Dettman, Marc D. Loud and Meridith H. Moldenhauer to Approve. Anthony J. Hood to Approve by absentee ballot. The third mayoral appointee position vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: January 14, 2010

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS.

BZA APPLICATION NO. 18010

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SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18014 of The Elizabeth Ministry, Inc., pursuant to 11 DCMR § 3104.1, for a special exception to establish a child development center (25 children and 4 staff) under section 205, in the R-2 District at premises 200 and 210 55th Street, N.E. (Square 5252, Lots 140 and 141).

HEARING DATE: December 22, 2009

DECISION DATE: December 22, 2009

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 7C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 7C, which is automatically a party to this application. ANC 7C did not submit a report in relation to the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception relief under § 205. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report, the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 205, that the requested relief can be granted, being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 30 (Plans) is hereby **GRANTED, SUBJECT to the following CONDITIONS:**

1. Approval shall be for a period of TEN (10) YEARS.

BZA APPLICATION NO. 18014**PAGE NO. 2**

2. The number of children attending the child development center shall be a maximum of twenty-five (25) children.
3. The number of staff shall be a maximum of four (4) persons.
4. Only children of parents who reside at the subject site (Square 5252, Lots 140 and 141) are allowed to attend the child development center.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Michael G. Turnbull and Shane L. Dettman to APPROVE; Marc D. Loud not present, not voting; one Mayoral appointee (vacant) not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A Majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: **JANUARY 5, 2010**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

BZA APPLICATION NO. 18014**PAGE NO. 3**

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

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**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18015 of M. Sikder, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a new one-family row dwelling in the R-3 District at premises 2237 14th Street, S.E. (Square 5793, Lot 1019).

HEARING DATE: January 12, 2010

DECISION DATE: January 12, 2010 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The Applicant indicated that he attended the ANC meeting on January 5, 2010 where he presented the project and that the ANC members were supportive of the project. (Exhibit 23). Nonetheless, the ANC did not file a report, nor appear or give testimony at the hearing.¹ OP submitted a timely report recommending approval of the application. (Exhibit 21).²

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2 and 2101.1, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial

¹ Consequently, there was no report to which the Board could give great weight.

² The property is located in the Anacostia Historic District. The proposed building is subject to review by the Historic Preservation Review Board (HPRB). No report was provided from HPRB.

BZA APPLICATION NO. 18015

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detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 7 – Plans) be **GRANTED**.

VOTE: **4-0-1** (Marc D. Loud, Meridith H. Moldenhauer, Shane L. Dettman, Konrad W. Schlater to APPROVE. One Board member (vacant) not present, nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 15, 2010

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS,

BZA APPLICATION NO. 18015

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FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 18016 of M. Sikder, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under subsection 401.3, and a variance from the side yard requirements under section 405, and a variance from the lot occupancy requirements under section 403, to allow the construction of a new one-family semi-detached dwelling in the R-2 District at premises 1514 23rd Street, S.E. (Square 5577, Lot 27).¹

HEARING DATE: January 12, 2010

DECISION DATE: January 12, 2010 (Bench Decision)

SUMMARY ORDER

SELF CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 4).

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register* and by mail to Advisory Neighborhood Commission (ANC) 8A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8A, which is automatically a party to this application. The Applicant indicated that he attended the ANC meeting on January 5, 2010 where he presented the project and that the ANC members were supportive of the project. (Exhibit 23). Nonetheless, the ANC did not file a report, nor appear or give testimony at the hearing.² OP submitted a timely report recommending approval of the application. (Exhibit 22).

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3103.2, for a variance from the lot area requirements under subsection 401.3, from the side yard requirements under section 405, and from the lot occupancy requirements under section 403. Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§

¹ The application was amended to include a variance from the lot occupancy requirements under section 403.

² Consequently, there was no report to which the Board could give great weight.

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3103.2, 401.3, 405, and 403 that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit 23 – Revised Plans) be **GRANTED**.

VOTE: **4-0-1** (Marc D. Loud, Konrad W. Schlater, Shane L. Dettman, Meridith H. Moldenhauer to APPROVE. One Board member (vacant) not present, nor voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: January 15, 2010

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF

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ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.